IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 5415 OF 2007

Swehan Enterprises ... Petitioners

Versus

Municipal Corporation of

Greater Mumbai & Ors. ... Respondents

Mr.Prakash, Advocate, i/b. M/s.Prakash & Co.,Advocates for the the petitioners.

Mrs. Nisha Dabhade, & A.S.Bhor, Advocates, for the respondents.

CORAM: J.H.BHATIA,J.

DATE : 18th September, 2007

P.C.

1. Heard learned Counsel for both sides.

2. The appeal against the assessment of the property tax was dismissed by the Small Cause Court due to non-compliance of mandatory conditions of depositing the disputed tax amount under Section 217(2)(d) of the Mumbai Municipal Corporation Act. The appeal was not heard and disposed of on merits.

3. The learned Counsel for the petitioners makes a

statement that the petitioners shall deposit the disputed tax amount within four weeks from today and makes a request that the matter maybe remanded back to the Small Cause Court for hearing of the appeal on merits. The learned Counsel for the Respondent has no objection to the same.

4. Subject to the petitioners depositing the disputed tax amount as per the provisions of Section 217(2)(d) within four weeks from this date, the impugned order dated 5.6.2007 shall stand set aside and the Municipal Appeal St. No.84 of 2005 shall stand remanded to the Additional Chief Judge, Small Cause Court, Mumbai, for hearing and disposal as per law. In case the amount is not deposited within the stipulated period of four week, the petition shall be deemed to have been dismissed.

Petition stands disposed of accordingly.

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(J.H.BHATIA,J.)